

Government Administration and
Elections Committee

March 6, 2014

RE: Raised Bill No 382
LCO No. 2027

Public Hearing 3/10/2014

Dear Committee Members,

I had hoped to be able to attend and speak out on the issue raised in this bill concerning overpayments of state retirement benefits. My mother is ill and I am forced to be out of state so I hope you will accept this testimony and include it as part of the public record.

I ask that you support and pass raised bill No. 382 . I would like to speak concerning my own personal experience. I was employed by the state for 27.5 years. I retired in November 2005. I was told that within one year the SRES would perform an audit and if I was overpaid it would be taken from future benefits I received. I was concerned as to how much of an overpayment I might be liable for and I was told not more than \$35.00 per month. Others that I spoke to were told the same thing.

In order that I would not have a liability to the state , any and all income I received for a workers compensation payment and social security disability I immediately called and met with the audit supervisor , Jeffrey Bieber. When settling my workers compensation case , workers compensation commissioner Ernie Walker instructed myself and assistant attorney general , Sara Posner to discuss what amount he could award me that would not result in a reduction in my SRES Tier I pension benefit. My injury was from 1979 so I could be compensated \$146.92 per week even though I now earned \$1500 a week as a senior microbiologist. We met and discussed everything with the SRES audit supervisor and I informed him as well that I had applied for Social Security Disability. The SRES representative took all my income into account and told the aag and workers compensation commissioner and the employer that I could receive up to \$250 per week from workers compensation payments with no offset to my pension. I have the emails and letters that confirm that the wcc , aag and the SRES representative were in agreement. I was instructed to let the SRES know if and when I received the SSD benefit. I was awarded the SSD in late December 2007 retroactive to 2005. The workers compensation award was granted in October 2006. I meet each and every time with the SRES supervisor so he was aware of all income I was to receive. When I received income he adjusted the pension accordingly.

Four years after retirement and four years after being awarded SSD and workers compensation I received two letters telling me that now four years later after I kept them informed and drove them crazy meeting with them to keep all parties aware of all my income at all times (I have letters and emails to support this) the supervisor, Mr.Bieber

informed me that his department four years plus later had conducted an audit and that I had been overpaid by \$29,540.69 by some strange calculation they were now doing that made no sense to me and conflicted with what they had told the wcc and the aag. I received the letter of overpayment in April 2009 and was told I could begin paying back \$538.00 a month (in essence my entire wc payment for my injury) or I could send them a lump sum check for \$ 29, 540.69. I went through all the bells and whistles showing it was their error if it was indeed, I had never concealed income and had made them aware of it every step of the way. Commissioner Ernie Walker also issued an answer to a question the SRES had asked of him to explain his belief on the issue of whether the wc payment was supposed to be an offset and he indicated it was not to be an offset and stated it was issued in accordance with the wc laws in 1979 since I was injured at that time.

I then asked for a review by the SRES and a declaratory ruling. Because I challenged the issue immediately they begin withdrawing NOT \$ 538.00 per month from my pension as they indicated in the April 2009 letter explaining their final audit but they began taking \$1500.00 per month with no notice to me. My checkbook went crazy and I had no recourse. I pleaded, I argued, I begged for them to listen to reason, I was not at fault, I kept them aware at all times. How could they do this in particular if the workers compensation commissioner Ernie Walker stated and we had email to prove I accepted a smaller wc award so there would be no offset to my pension. My ability to earn income was greatly reduced by the disability which was 100% work related. I was told by the SRES commission that they set the rules and nothing could be done. Each month I was shorted \$1500 from my pension check with no recourse. The transcript of the meetings by the SRES committee have them stating that they know they have no authority to do this or to override the wcc but "lets trump them any way"-This was totally inhumane to attack a long time employee in this manner financially. This was akin to extortion by this committee and it needs to be addressed. No committee or commission should have total control in this manner. In addition the statutes are being applied incorrectly on this issue. More importantly though the issue of conducting audits four years after I retired is ridiculous.

You would have to put your whole life on hold if that were the case then . You could make no financial decisions at all. I bought property based on the figures I was given. I waited the year for the full audit I could handle it if they had overpaid by not more than \$35.00 but to tell me it was going to be a deduction of \$1500.00 a month and to just start taking it from my check which direct deposited was ridiculous and cruel.

I support the fact that if someone knowingly with holds or fails to notify the SRES of a workers compensation payment, or a social security payment or any income then they should be held accountable. I support that audits must be completed within two years of beginning to receive retirement. I do not support this policy that the SRES at any length of time after beginning to receive your pension and if you notified them of all the changes to your income that they should be able to attach your pension in any way after two years. To have done it four years later to me is so unbelievably cruel especially when I met, called, talked etc so many times to make them aware of all income I received. I relied on their calculations, I relied on their advice. How then could the SRES cripple me financially. They also as I was going through the declaratory ruling process they put liens on my workers compensation payments as they withdrew each month \$1500.00 from my pension.

I ask that my \$29540.69 be returned to me as I followed all the rules that SRES set up, I entered an agreement with the SRES, the employers representative AAG Sara Posner and the workers compensation commissioner, Ernie Walker that I would accept the lower wc award and as a result my pension would have no offset. The workers compensation payments were not to be included in the calculations and there would have been no overpayment with the SSD award. SRES was on board and aware at all times, telling me if any over payment occurred it would be no more than \$35.00. I even asked the union representative and attorney to speak with SRES and assure me that my income was all reported to SRES appropriately and that there would be no offset to my pension. I was told then after FOUR YEARS the SRES had made a mistake and had felt they had to deduct \$1500 a month from my pension? I am asking that you support this raised bill No. 382, LCO No. 2027. I ask also that the overpayment of \$29540.00 that was taken from me not because of an error on my part and not because I failed to keep the SRES informed but because four years later they reneged on the agreement they entered into with me or because they failed to perform an audit until four years later, I should not be harmed as I have been.

I don't mind if they pay it back monthly. Just pay back the \$29,540.69 they took, no interest is being requested by this citizen .

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I hope you will agree that this agency needs more oversight , that the issue of not performing audits for four years is totally wrong and fiscally irresponsible.

Thank you,
Priscilla C. Dickman
2534 Boston Turnpike
Coventry, CT 06238
phone and fax 860-742-5220
dickmanpriscilla@yahoo.com